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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,059	10/17/2005	Sergey Selifonov	16219-003US1/	8200
26191	7590	11/07/2006	EXAMINER	
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			WITHERSPOON, SIKARL A	
			ART UNIT	PAPER NUMBER
			1621	

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-5 and 12, drawn to a lactic acid ester of formula (2) and process for making.

Group II, claim(s) 6-11 and 13-15, drawn to a dioxanone compound of formula (1) and process for making.

Group III, claim(s) 16 and 17, drawn to a polymer composition.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: under 37 CFR 1.475, an international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a *single* general inventive concept.

Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same corresponding *special technical features*.

An international or a national stage application containing claims to different categories of invention will be considered to have unity if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and a process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of said product, and a use of said product; or
- (4) A process and apparatus or means specifically designed for carrying out said process; or
- (5) A product, a process specially adapted for the manufacture of said product, and an apparatus or means specifically designed for carrying out said process.

In the present application, the invention of Group I is drawn to a lactic acid ester of formula (2) and process for making. The invention of Group II is drawn to a dioxanone compound of formula (1) and process for making. While the compound of formula (2) of

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Group I is used in the preparation of the compound of formula (1) of Group II, the two inventions are essentially drawn to two patentably distinct products and process for making them. Two patentably distinct compounds, and processes, are not included in the above five categories, and as such these claims do not have unity of invention.

The invention of Group III is drawn to a polymer composition, which is patentably distinct from both Groups I and II.

As all three groups of invention listed above are patentably distinct, as can be seen in the fact that each of the three groups has a different classification, it would constitute a serious burden on the Office to examine all three groups.

A telephone call was made to applicant's representative, Dorothy Whelan on November 1, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of

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record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sikarl A. Witherspoon whose telephone number is 571-272-0649. The examiner can normally be reached on M-F 8:30-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Sikarl A. Witherspoon
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PRIMARY EXAMINER